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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/500,880      | 10/07/2004  | Sidney C. Alford     | 16170.1             | 1313             |

22913 7590 03/08/2006

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EXAMINER

ELDRED, JOHN W

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/500,880 | <b>Applicant(s)</b><br>ALFORD, SIDNEY C. |  |
|                              | <b>Examiner</b><br>J. Woodrow Eldred | <b>Art Unit</b><br>3641                  |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the – subject matter which the applicant regards as his invention.

2. Claims 7, 8, and 12-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, “the spacer element comprises part of all of the projectile” is vague and indefinite because this limitation conflicts with claim 1, which states that the wall being spaced is the projectile. Likewise, in claim 8, “the spacer element comprises a cavity for holding projectile material to form the projectile” is vague and indefinite since it is not clear how the spacer could hold material in a cavity to form the projectile while the projectile wall is actually forming the enclosure while being held in place. In claim 12, since the method involves placing the explosive material into the enclosure before locating the projectile wall, it appears incorrect to claim that the wall could be located at any number of positions so that the enclosure is filled, since it appears that only one position of the wall would result in the enclosure being “filled”, as opposed to being partially filled. In claim 14, it is not clear how the explosive can be placed in an enclosure after a projectile is located, since there appears to be no opening or other structure into which to put the explosive after the projectile is placed, and it is also not clear what structural relation exists between the projectile and the enclosure.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3641

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 5, 7-9, and 11-16 are rejected under 35 U.S.C. 102(b) as anticipated by Beebe (4,862,567) or, in the alternative, under 35 U.S.C. 103(a) as obvious over Beebe (4,862,567) in view of Rogers (4,852,451).

Beebe discloses a firearm cartridge (and reloading the cartridge) which discloses or inherently has all claimed elements, including an enclosure 19 and a projectile 45 which is disclosed as being placed in any one of a number of desired positions (see column 1, lines 62-69; column 5, lines 6-29). When performing the disclosed (e.g. column 1, line 9) firing, the inherent barrel/chamber of the firearm will correspond to the claimed container. Likewise, it is inherent the disclosed cartridge must contain an explosive (e.g. gun powder which is inserted as part of the reloading process) and an igniter (e.g. primer) to operate. It is also noted that the portion of the cartridge wall which crimps the bullet in place (column 3, lines 27-30) corresponds to the claimed "spacer". Even if it is argued that the explosive and igniter is not inherent in the reloaded cartridge of Beebe, Rogers discloses that it is well known to place powder and primers into a reloaded cartridge. To employ the teachings of Rogers on the cartridge and method of Beebe and have explosive powder and igniting primers placed in the cartridge is considered to have been obvious to one having ordinary skill in the art.

6. Claims 1, 2, 5, 7-9, and 11-16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lee (4,385,546).

Lee discloses a firearm cartridge (and reloading the cartridge) which discloses or inherently has all claimed elements, including an enclosure 27, a projectile 55 which is disclosed as being placed in any one of a number of desired positions, an explosive inserted in the

Art Unit: 3641

enclosure and a primer. See column 1, lines 8-17; column 2, lines 24-40; and column 4, lines 42-68. When firing the cartridge, the inherent barrel/chamber of the firearm will correspond to the claimed container. It is also noted that the portion of the cartridge wall which crimps the bullet in place corresponds to the claimed "spacer". Even if it is argued that the firearm is not disclosed by Lee, it is considered to be obvious that one of ordinary skill in the art would employ the cartridge for the only reason it is made or reloaded, that is, for firing in a firearm.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (4,385,546) in view of Koon (5,708,231).

Lee discloses a firearm cartridge (and reloading the cartridge) which discloses or inherently has most of the claimed elements, including an enclosure 27, a projectile 55 which is disclosed as being placed in any one of a number of desired positions, an explosive inserted in the enclosure and a primer. See column 1, lines 8-17; column 2, lines 24-40; and column 4, lines 42-68. When firing the cartridge, the inherent barrel/chamber of the firearm will correspond to the claimed container. Lee fails to disclose the spacer elements "provided in the enclosure". Koon teaches that it is known to have spacer elements (lugs 52 and 54) inside a cartridge case 24 that act to position a projectile 32. Motivation to combine is that the addition of spacer lugs to the cartridge of Lee provides improved performance by providing support that results in a greater impulse applied to the projectile. See column 4, line 58 – column 5, line 14. To employ the teachings of Koon on the cartridge of Lee and have spacer elements in the enclosure is considered to have been obvious to one having ordinary skill in the art.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (4,385,546) in view of Mravic et al (5,399,187).

Lee discloses a firearm cartridge (and reloading the cartridge) which discloses or inherently has most of the claimed elements, including an enclosure 27, a projectile 55 which is disclosed as being placed in any one of a number of desired positions, an explosive inserted in the enclosure and a primer. See column 1, lines 8-17; column 2, lines 24-40; and column 4, lines 42-68. When firing the cartridge, the inherent barrel/chamber of the firearm will correspond to

Art Unit: 3641

the claimed container. Lee fails to disclose the material from which the projectile is made, in particular it does not disclose titanium as the material. Mravic et al teach that it is known to have a projectile for a firearm cartridge made from titanium. See column 2, lines 18-24.

Motivation to combine is the improved safety by forming the projectile from a non-hazardous material. See column 1, lines 14-27. To employ the teachings of Mravic et al on the cartridge of Lee and have the projectile formed from titanium is considered to have been obvious to one having ordinary skill in the art.

9. Claims 3 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

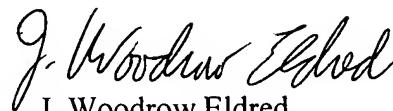
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Woodrow Eldred whose telephone number is 571-272-6901. The examiner can normally be reached on Monday to Thursday, from 8:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3641

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "J. Woodrow Eldred". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

J. Woodrow Eldred  
Primary Examiner  
Art Unit 3641

JWE